IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5436 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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JANAKKUMAR BHUPATRAI PAREKH

Versus

STATE OF GUJARAT

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Appearance:

MR AY KOGJE for Petitioner

MR KT DAVE, AGP for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 10/08/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner, who claims to be the proprietor of Joy-N-Joy Club at Vapi, has prayed for a writ of mandamus, order or direction quashing and setting aside the order dated 24.5.2000 (Annexure "E") passed by the District Magistrate/Collector, Valsad and to pass all other incidental and consequential orders including a direction to the respondents to allow the petitioner to run the business of conducting the game of Billiards/Snookers/Pool at Vapi, District Valsad. The

petitioner has also prayed that the decision of the respondents that the petitioner requires any license to run the business of play of the game of Billiards/Snookers/Pool be quashed and set aside.

2. It appears from the averments made in the petition that the petitioner had applied for license to respondent No.2-District Collector. The application was made for having a Billiard/Snooker/Pool Table at a different place which is about half a kilometer away from the present place where the petitioner is having his business. The said application was rejected by the order dated 24.5.2000 (Annexure "E") of the District Magistrate on the ground that since the rules are being framed, the permission cannot be granted. It is, therefore, contended that if there are no such rules, no permission is required and merely because the rules are being framed cannot be a ground for refusing the license to the petitioner. It also appears that in view of the complaints filed by one Ashok Shukal in Vapi area, the local crime branch raided the petitioner's business premises and filed an FIR and the investigation revealed that only Rs.178/- were recovered from all the persons present in the premises during the raid.

3. When the petition came up for hearing on 4.7.2000, the petition was admitted and the Court granted ad-interim relief restraining the respondents from preventing or obstructing the petitioner from running the business of the play of game of Billiards/Snookers/Pools at Vapi, District Valsad subject to the condition that the petitioner shall not permit any gambling activity at the petitioner's premises.

4. At the hearing of this petition today, Mr KT Dave, learned AGP states that in Valsad District, rules are being framed for regulating the business of the play of game of Billiards/Snookers/Pool and such rules are under consideration of the State Government and that at present no such rules have been brought in force. It is not the case of the respondents that the premises in question are close to any educationa institution.

5. In view of the above, it is obvious that since there are no such rules, the respondents shall not interfere with the petitioner in running the business of providing Billiards/Snookers/Pool tables for sports purposes.

It is, however, clarified that if there is any breach of any provision of any law such as Indian Penal

Code, Bombay Prevention of Gambling Act or any other statutory provisions at the premises in question, it will be open to the respondents to take appropriate action in accordance with law, but not otherwise. It is also obvious that in case any rules are framed in future, the petitioners as well as the respondents will have to act in accordance with such rules.

6. The petition is accordingly allowed in terms of the aforesaid directions and observations.

Rule is made absolute.

August 10, 2000 (M.S. Shah, J.)

sundar/-